Combating Community fraud: criminal-law protection of the financial interests, the European Prosecutor. Green Paper

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The committee adopted the report by Diemut THEATO (EPP-ED, D) welcoming the Commission's Green Paper. Pointing out that approximately EUR 1 billion was lost each year as a result of fraud and that the European taxpayer was the ultimate victim of this, the committee supported the idea of establishing a European Public Prosecutor and said that protection of the EU's financial interests should be a priority objective for the development of common provisions in the field of criminal law. In its view "there can be no question of returning Community powers to national level". The report called on the Convention and the future Intergovernmental Conference in 2004 to incorporate Article 280a on the establishment of a European Public Prosecutor's office (as proposed by the Commission during the May 2000 IGC) into the future treaty. It argued that the protection of the Community's financial interests in an enlarged Union must be secured, while at the same time stressing that this must not become an obstacle to successful enlargement in 2004. It also noted that the establishment of a European Prosecutor on a first pillar basis would be a further step away from the demarcation of EU powers into three areas with separate rules and instruments under the three-pillar architecture. The committee stressed the need for democratic control, via the European Parliament, over the exercise of power by the Prosecutor who, it said, should be appointed by Parliament, with the assent of the Council, following the nomination by the Commission of at least two candidates. It also made a number of suggestions for improving the system proposed in the Green Paper, so as to ensure that fundamental rights are fully upheld and protected in the course of the new authority's work. MEPs added that the offences which constitute damage to the EU's financial interests should be specified "in precise detail" and that a uniform set of penalties was needed. Other points raised in the report included: the need to guarantee the European Prosecutor's independence; the need for the Prosecutor to be subject to judicial control making it possible to lodge subsequent appeals and better monitor his/her work; and the need to lay down detailed criteria for determining the choice of Member State where the trial would be held, in order to avoid the risks of 'forum shopping'. The committee also called for consideration to be given to a body of common EU rules on evidence, in view of the different systems in force in the various Member States. Lastly, MEPs wanted the Commission to clarify its proposals regarding relations between the Prosecutor and existing structures such as Eurojust and OLAF. On the latter point, they suggested that OLAF's remit could be enlarged to include powers of criminal investigation and that OLAF be made an entirely independent body.